

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

GREGORY THOMPSON, DELORES
THOMPSON, and ERIC THOMPSON,

Plaintiffs,

vs.

ANTHONY FLORES, Current Operator of
Value Priced Auto Phoenicians and
Carbid360;

Defendant.

8:24CV173

MEMORANDUM AND ORDER

This matter is before the Court on the Motions for Leave to Proceed in Forma Pauperis (“IFP”) filed by Plaintiffs Gregory Thompson (“Gregory”), Delores Thompson (“Delores”), and Eric Thompson (“Eric”). [Filing No. 2](#); [Filing No. 3](#); [Filing No. 4](#).

While all three Plaintiffs submitted declarations in support of their request to proceed IFP, Gregory’s and Delores’ declarations are incomplete. Specifically, Gregory and Delores, who are both non-prisoners, indicated they have received income from “[p]ensions, annuities, or life insurance payments” in the past 12 months, but they failed to state the amount they received and expect to receive in the future. [Filing No. 2 at 1](#); [Filing No. 4 at 1](#). In addition, neither Gregory nor Delores provided an answer to the question, “Do you have any cash or money in a checking or savings account?” *Id.* Based on the information presented, the Court cannot determine the extent of Gregory’s and Delores’ available assets, and their IFPs motion do not comply with the terms of [28 U.S.C. § 1915](#), the statute authorizing proceedings in forma pauperis. See [28 U.S.C. § 1915\(a\)\(1\)](#) (requiring the plaintiff to submit “an affidavit that includes a statement of all

assets such prisoner possesses that the person is unable to pay such fees or give security therefor”).

Accordingly, the Court determines that Gregory’s and Delores’ present motions to proceed IFP are insufficient and are, therefore, denied. Gregory and Delores have the choice of either submitting the \$405.00 filing and administrative fees to the Clerk’s office or submitting new requests to proceed in forma pauperis that comply with [28 U.S.C. § 1915](#). Failure to take either action within 30 days will result in the Court dismissing this case without further notice to Plaintiffs.

With respect to Eric’s IFP motion, Eric, as a prisoner plaintiff, is required to pay the full amount of the Court’s \$350.00 filing fee by making monthly payments to the Court, even if he is proceeding IFP. [28 U.S.C. § 1915\(b\)](#). The Prison Litigation Reform Act “makes prisoners responsible for their filing fees the moment the prisoner brings a civil action or files an appeal.” [In re Tyler](#), 110 F.3d 528, 529–30 (8th Cir. 1997); [Jackson v. N.P. Dodge Realty Co.](#), 173 F. Supp. 2d 951 (D. Neb. 2001). If Eric is granted leave to proceed IFP in this matter, he will be allowed to pay the Court’s \$350 filing fee in installments. See [28 U.S.C. § 1915\(b\)\(1\)](#); [In re Tyler](#), 110 F.3d 528, 529–30 (8th Cir. 1997). He would not be subject to the \$55.00 administrative fee assessed to non-IFP plaintiffs. Pursuant to [28 U.S.C. § 1915\(b\)\(1\)](#), Eric must pay an initial partial filing fee in the amount of 20 percent of the greater of his average monthly account balance or average monthly deposits for the six months preceding the filing of the Complaint. The Court has requested a copy of Eric’s trust account statement from his institution, the Iowa State Penitentiary, see [Filing No. 10](#), in order to calculate his initial

partial filing fee and will reserve ruling on his IFP motion until the trust account statement is received.

IT IS THEREFORE ORDERED that:

1. Plaintiff Gregory Thompson's and Plaintiff Delores Thompson's Motions for Leave to Proceed IFP, [Filing No. 2](#); [Filing No. 4](#), are denied without prejudice to reassertion in motions to proceed in forma pauperis that comply with [28 U.S.C. § 1915](#).

2. Plaintiffs Gregory Thompson and Delores Thompson are directed to submit the \$405.00 fees to the Clerk's office or to each submit a new request to proceed in forma pauperis within 30 days. Failure to take either action will result in dismissal of this matter without further notice.

3. The Clerk of the Court is directed to send to Plaintiffs Gregory Thompson and Delores Thompson two copies of the Form AO240 ("Application to Proceed Without Prepayment of Fees and Affidavit").

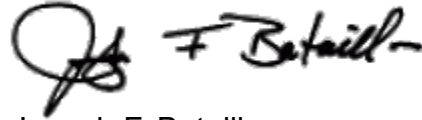
4. The Clerk of the Court is directed to set a pro se case management deadline in this matter with the following text: **June 21, 2024**: Check for MIFP or payment from Plaintiffs Gregory and Delores Thompson.

5. The Court will reserve ruling on Plaintiff Eric Thompson's IFP motion until such time as the Court receives a copy of Eric's trust account information.

6. No further review of this case will take place until the issue of Plaintiffs' authorization to proceed in forma pauperis is resolved.

Dated this 22nd day of May, 2024.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J F Bataillon". The signature is stylized with a large, circular initial "J" and a long horizontal stroke extending to the right.

Joseph F. Bataillon
Senior United States District Judge